

1 COOLEY LLP  
WHITTY SOMVICHIAN (194463)  
2 (wsomvichian@cooley.com)  
MAX A. BERNSTEIN (305722)  
3 (mbernstein@cooley.com)  
ANUPAM DHILLON (324746)  
4 (adhillon@cooley.com)  
CAROLINE A. LEBEL (340067)  
5 (clebel@cooley.com)  
3 Embarcadero Center, 20<sup>th</sup> floor  
6 San Francisco, CA 94111-4004  
Telephone: +1 415 693 2000  
7 Facsimile: +1 415 693 2222

8 COOLEY LLP  
ARIANA E. BUSTOS (345918)  
9 (ABustos@cooley.com)  
355 South Grand Avenue, Suite 900  
10 Los Angeles, California 90071  
Telephone: (213) 561-3250  
11 Facsimile: (213) 561-3244

12 Attorneys for Defendant  
GOOGLE LLC

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN JOSE DIVISION

18 JOSEPH TAYLOR, EDWARD MLAKAR,  
MICK CLEARY, EUGENE ALVIS, and  
19 JENNIFER NELSON, individually and on  
behalf of all others similarly situated,

20 Plaintiffs,

21 v.

22 GOOGLE LLC,

23 Defendant.

Case No. 5:20-cv-07956-VK

**DECLARATION OF WHITTY SOMVICHIAN  
IN SUPPORT OF GOOGLE LLC'S  
OPPOSITION TO PLAINTIFFS' MOTION FOR  
CLASS CERTIFICATION**

Date: July 22, 2025  
Time: 10:00 a.m.  
Dept: Ctrm 2, 5<sup>th</sup> Floor  
Judge: Hon. Virginia K. DeMarchi

1 I, Whitty Somvichian, hereby declare as follows:

2 1. I am an attorney admitted to practice law in the State of California and a partner at  
3 Cooley LLP, counsel for Defendant Google LLC (“Google”). I submit this declaration in support  
4 of Google’s Opposition to Plaintiffs’ Motion for Class Certification. I have personal knowledge of  
5 the facts herein and if called to testify, could and would testify competently hereto.

6 2. Attached hereto as **Exhibit 1** is a true and correct copy of the March 10, 2025 Expert  
7 Report of Google’s expert Dr. Kevin Jeffay.

8 3. Attached hereto as **Exhibit 2** is a true and correct copy of a research study authored  
9 by Trevor Wheelright, titled *Cell Phone Usage Stats 2025: Americans Check Their Phones 205*  
10 *Times a Day*, published by Reviews.org, dated, January 1, 2025, available at  
11 <https://www.reviews.org/mobile/cell-phone-addiction/>.

12 4. Attached hereto as **Exhibit 3** is a true and correct copy of a research study authored  
13 by Risa Gelles-Watnick, titled *Americans’ Use of Mobile Technology and Home Broadband*,  
14 published by Pew Research Center on January 31, 2024, available at  
15 [https://www.pewresearch.org/wp-content/uploads/sites/20/2024/01/PI\\_2024.01.31\\_Home-](https://www.pewresearch.org/wp-content/uploads/sites/20/2024/01/PI_2024.01.31_Home-Broadband-Mobile-Use_FINAL.pdf)  
16 [Broadband-Mobile-Use\\_FINAL.pdf](https://www.pewresearch.org/wp-content/uploads/sites/20/2024/01/PI_2024.01.31_Home-Broadband-Mobile-Use_FINAL.pdf).

17 5. Attached hereto as **Exhibit 4** is a true and correct copy of the March 10, 2023 Expert  
18 Report of Google’s expert Dr. Kevin Jeffay.

19 6. Attached hereto as **Exhibit 5** is a true and correct copy of the March 10, 2025  
20 Supplemental Analysis of Network Usage Data by Google’s expert Dr. Kevin Jeffay.

21 7. Attached hereto as **Exhibit 6** is a true and correct copy of the January 15, 2025  
22 Expert Report of Google’s expert Dr. Sandeep Chatterjee.

23 8. Attached hereto as **Exhibit 7** is a true and correct copy of the January 9, 2023 Expert  
24 Report of Plaintiffs’ expert Dr. Douglas Schmidt in the *Csupo v. Google* matter, which was attached  
25 as an exhibit to various of Plaintiffs’ experts’ reports in this matter and adopted in full for purposes  
26 of this matter.

27 9. Attached hereto as **Exhibit 8** is a true and correct copy of the November 12, 2024  
28 Expert Report of Plaintiffs’ expert Dr. Jeffery Stec.

1           10. Attached hereto as **Exhibit 9** is a true and correct copy of the January 9, 2023 Expert  
2 Report of Plaintiffs' expert Dr. Roger Entner in the *Csupo v. Google* matter, which was attached as  
3 Exhibit A to his expert report in this matter and adopted in full for purposes of this matter.

4           11. Attached hereto as **Exhibit 10** is a true and correct copy of an AT&T advertisement  
5 for an unlimited high speed data plan, available at the archived webpage  
6 <https://web.archive.org/web/20220706000049/https://www.att.com/plans/unlimited-data-plans/>,  
7 produced by Google beginning at GOOG-CSUPO-00059644.

8           12. Attached hereto as **Exhibit 11** is a true and correct copy of an AT&T advertisement  
9 for an unlimited high speed data plan, available at the archived webpage  
10 <https://web.archive.org/web/20220706000048/https://www.att.com/plans/wireless/>, produced by  
11 Google beginning at GOOG-CSUPO-00059870.

12           13. Attached hereto as **Exhibit 12** is a true and correct copy of the January 15, 2025  
13 Expert Report of Google's expert Dr. Anindya Ghose.

14           14. Attached hereto as **Exhibit 13** is a true and correct copy of excerpts from the  
15 transcript of the deposition of Plaintiffs' Expert Christopher Thompson, taken on December 12,  
16 2024.

17           15. Attached hereto as **Exhibit 14** is a true and correct copy of a research study authored  
18 by Edward Cone, Matthew Reynolds, and Teri Robinson, titled *Maximizing Mobile Value: to*  
19 *BYOD or Not to BYOD?*, published by Oxford Economics on January 31, 2024, available at  
20 <https://perma.cc/6FK9-8BM4>.

21           16. Attached hereto as **Exhibit 15** is a true and correct copy of a research study authored  
22 by Sarah Bedrick, titled *Cell Phone Stipends: Everything You Need to Know*, published by Compt  
23 on November 26, 2024, available at <https://compt.io/guide/cell-phone-reimbursement-stipends/>.

24           17. Attached hereto as **Exhibit 16** is a true and correct copy of an internal Google  
25 document, produced by Google beginning at GOOG-CSUPO-00007429.

26           18. Attached hereto as **Exhibit 17** is a true and correct copy of an internal Google  
27 document, produced by Google beginning at GOOG-CSUPO-00039998.

28           19. Attached hereto as **Exhibit 18** is a true and correct copy of excerpts from the

1 transcript of the deposition of Plaintiff Jennifer Nelson, taken on October 25, 2024.

2 20. Attached hereto as **Exhibit 19** is a true and correct copy of a research study authored  
3 by Serhii Uspenskyi, titled *How Many Software Engineers Are There in 2025?*, published by  
4 Springs on January 14, 2025, available at [https://springsapps.com/knowledge/how-many-software-](https://springsapps.com/knowledge/how-many-software-engineers-are-there-in-2024)  
5 [engineers-are-there-in-2024](https://springsapps.com/knowledge/how-many-software-engineers-are-there-in-2024).

6 21. Attached hereto as **Exhibit 20** is a true and correct copy of excerpts from the  
7 transcript of the deposition of Plaintiffs' Expert Dr. Steven Neuberg, taken on November 11, 2024.

8 22. Attached hereto as **Exhibit 21** is a true and correct copy of a screen capture of a  
9 publicly available webpage describing the Android Device Configuration Service (a/k/a Checkin),  
10 available at [https://support.google.com/android/answer/9021432?sjid=12179996449021729019-](https://support.google.com/android/answer/9021432?sjid=12179996449021729019-NC)  
11 [NC](https://support.google.com/android/answer/9021432?sjid=12179996449021729019-NC), produced by Google beginning at GOOG-CSUPO-00058211.

12 23. Attached hereto as **Exhibit 22** is a true and correct copy of a screen capture of a  
13 publicly available webpage describing the NLP/GLS location system, available at  
14 [https://support.google.com/android/answer/15157297?hl=en&ref\\_topic=7340598&sjid=1559536](https://support.google.com/android/answer/15157297?hl=en&ref_topic=7340598&sjid=15595367840492067613-NC#zippy=%2Cpermission-use)  
15 [7840492067613-NC#zippy=%2Cpermission-use](https://support.google.com/android/answer/15157297?hl=en&ref_topic=7340598&sjid=15595367840492067613-NC#zippy=%2Cpermission-use), produced by Google beginning at GOOG-  
16 CSUPO-00055525.

17 24. Attached hereto as **Exhibit 23** is a true and correct copy of a screen capture of a  
18 publicly available webpage describing how Google Play services operates on a device, including  
19 the logging and other information it may exchange with Google servers, available at  
20 <https://support.google.com/android/answer/10710481>, produced by Google beginning at GOOG-  
21 CSUPO-00058185.

22 25. Attached hereto as **Exhibit 24** is a true and correct copy of a screen capture of a  
23 publicly available webpage titled "Share usage and diagnostics information with Google,"  
24 describing usage and diagnostic logging, available at  
25 <https://www.support.google.com/accounts/answer/6078260>, produced by Google beginning at  
26 GOOG-CSUPO-00055508. This webpage explains: "To help us improve Android, you can let your  
27 device send us information about how you use it and how it's working." It further explains: "If you  
28 turn on usage and diagnostics, your device sends info to Google about what's working and not

1 working. For example, your device can send info like: Battery level[,] How often you use your  
 2 apps[,] [and] Quality and length of your network connections...” This webpage describes usage  
 3 and diagnostics logging Plaintiffs challenge under the Clearcut category.

4 26. Attached hereto as **Exhibit 25** is a true and correct copy of a screen capture of a  
 5 publicly available webpage titled “Share Pixel usage & diagnostics information with Google,”  
 6 describing additional usage and diagnostics logging specific to Pixel devices, available at  
 7 <https://support.google.com/pixelphone/answer/14116441?hl=en>, produced by Google beginning at  
 8 GOOG-CSUPO-00055553. This webpage explains, amongst other things: “If you turn on “Usage  
 9 & diagnostics,” your Pixel device sends information about your device’s performance and usage  
 10 patterns to Google. This info is associated with your device’s unique identifier, such as serial  
 11 number. For example, your device can send information such as: Battery and thermal  
 12 performance[,] Sensor performance[,] Component related performance (such as speakers, camera,  
 13 display, storage, and others)[,] Software stability[,] How often you use your apps[,] and Quality  
 14 and length of your network connections[.]” This webpage describes usage and diagnostics logging  
 15 from Pixel devices Plaintiffs challenge under the Clearcut category.

16 27. Attached hereto as **Exhibit 26** is a true and correct copy of a screen capture of a  
 17 publicly available webpage titled “Learn more about Google Play services for system  
 18 management,” describing how Google Play services makes devices more secure and reliable,  
 19 available at [https://support.google.com/android/answer/12461729?hl=en#zippy=%2Cpermission-](https://support.google.com/android/answer/12461729?hl=en#zippy=%2Cpermission-use)  
 20 [use](https://support.google.com/android/answer/12461729?hl=en#zippy=%2Cpermission-use), produced by Google beginning at GOOG-CSUPO-00058195. This webpage explains, amongst  
 21 other things: “Google Play services for system management keeps your device up to date with  
 22 various system, application, and performance updates. It also provides some security features, such  
 23 as Google Play Protect for Android devices.” It also explains various categories of data that Google  
 24 may collect. This webpage describes how Google Play services provides the logging, updates, and  
 25 security services Plaintiffs challenge.

26 28. Attached hereto as **Exhibit 27** is a true and correct copy of a screen capture of a  
 27 publicly available webpage titled “Learn more about Google Play services for system diagnostics”  
 28 describing the logging that Plaintiffs challenge, available at <https://tinyurl.com/5yrtehxsx>, produced

1 by Google beginning at GOOG-CSUPO-00058199. This webpage explains, amongst other things:  
 2 “Google Play services for system diagnostics sends information to Google about how you use your  
 3 device, how well it performs, and how you use Google apps and services. This includes information  
 4 such as your app usage data, network state, and permission settings. Google uses this information  
 5 to provide services such as to improve your battery life, system, app stability, and to improve the  
 6 Android experience for everyone. For example, Google Play services for system diagnostics: Uses  
 7 info about what uses the most battery on your device to help make common features use less battery.  
 8 Uses permissions to give you control over how your data is used and makes sure only authorized  
 9 apps access your data. Uses info about when apps crash and freeze on your device to help make the  
 10 Android operating system more reliable.” This webpage describes logging Plaintiffs challenge  
 11 under the Clearcut category.

12 29. Attached hereto as **Exhibit 28** is a true and correct copy of a screen capture of a  
 13 publicly available webpage titled “How Chrome keeps your usage statistics and crash report  
 14 private,” available at <https://tinyurl.com/4csasb67>, produced by Google beginning at GOOG-  
 15 CSUPO-00062270. The webpage explains that “Usage statistics measure the effectiveness of  
 16 browser features and performance. The data collected includes how you use your browser, your  
 17 system information, your browser performance, settings, and preferences.” This webpage describes  
 18 logging Plaintiffs challenge under the Clearcut category.

19 30. Attached hereto as **Exhibit 29** is a true and correct copy of a screen capture of a  
 20 publicly available webpage titled “Start or stop automatically reporting errors and crashes,”  
 21 available at <https://tinyurl.com/4x5n8kvh>, produced by Google beginning at GOOG-CSUPO-  
 22 00062268. It describes how to turn on or off “[h]elp improve Chrome’s features and performance,”  
 23 which allows Chrome to send “automatic reports.” This setting allows users to change the volume  
 24 and types of certain logs Plaintiffs challenge under the Clearcut category.

25 31. Attached hereto as **Exhibit 30** is a true and correct copy of a screen capture of a  
 26 publicly available webpage titled “Manage your device logs on Android,” available at  
 27 <https://support.google.com/android/answer/12986432?hl=en>, produced by Google beginning at  
 28 GOOG-CSUPO-00055523. This webpage states, among other things: “Device logs contain

1 information recorded by the system and apps on your device. These logs are stored temporarily and  
 2 are deleted on a rolling basis.” It continues on to explain “[w]hat device logs may contain” and  
 3 explains that “[y]ou can allow or decline an app’s request to access all device logs.” It also states:  
 4 “Even if you don’t provide access to all device logs when the system prompts you, Google, your  
 5 device manufacturer, or app developers may still be able to access some logs or similar information.  
 6 For example, if your device’s Usage & diagnostics setting is enabled, your device sends info to  
 7 Google about how you use your device and how it’s working.” This webpage describes logging  
 8 Plaintiffs challenge under the Clearcut category and settings that vary this logging.

9 32. Attached hereto as **Exhibit 31** is a true and correct copy of a screen capture of a  
 10 publicly available webpage titled “Learn about Google Play Services,” available at  
 11 <https://support.google.com/android/answer/10546414?hl=en>, produced by Google beginning at  
 12 GOOG-CSUPO-00058182. It states, “Google Play services for system management may collect  
 13 and share certain information and use certain permissions to support related functionality on your  
 14 device.” This webpage describes logging Plaintiffs challenge under the Clearcut category.

15 33. Attached hereto as **Exhibit 32** is a true and correct copy of a screen capture of a  
 16 publicly available webpage titled “How Google Play services works on your device,” available at  
 17 <https://support.google.com/android/answer/12319308>, produced by Google beginning at GOOG-  
 18 CSUPO-00058187. This webpage explains that Google Play services “provides functionalities such  
 19 as” “prevent[ing] ad spam,” (describing Google’s anti-ad abuse system) “features that app  
 20 developers can include to make their apps better and more reliable” (describing Google’s system  
 21 for software configuration); “Location accuracy: Used to improve location accuracy using Wi-Fi,  
 22 mobile networks, and sensors” (describing Google Location Accuracy); and “security features”  
 23 (describing DroidGuard). This webpage describes many of the categories of transfers that Plaintiffs  
 24 challenge.

25 34. Attached hereto as **Exhibit 33** is a true and correct copy of a screen capture of a  
 26 publicly available webpage titled “Learn more about Google System updates,” available at  
 27 <https://support.google.com/product-documentation/answer/11462338?hl=en>, produced by Google  
 28 beginning at GOOG-CSUPO-00064067. This webpage explains: “Google System updates give you



1 new and useful features that make your Android devices more secure and reliable. It includes  
 2 updates to the Android operating system and key system services provided by Google, Google Play  
 3 Store, and Google Play services.” It also explains: “By default, Google System services  
 4 automatically updates your device with security, bug fixes, and new features. Some updates are  
 5 delivered via system services in separate Android packages.” This webpage describes Google’s  
 6 configuration system Plaintiffs challenge. The webpage also refers to the “important services” that  
 7 system updates improve, including “Security & Privacy” (DroidGuard) and “Location Services”  
 8 (Google Location Accuracy).

9 35. Attached hereto as **Exhibit 34** is a true and correct copy of T-Mobile’s Terms and  
 10 Conditions effective as of March 1, 2021, available at the archived webpage  
 11 [https://web.archive.org/web/20221231005248/https://www.t-](https://web.archive.org/web/20221231005248/https://www.t-mobile.com/responsibility/legal/terms-and-conditions)  
 12 [mobile.com/responsibility/legal/terms-and-conditions](https://web.archive.org/web/20221231005248/https://www.t-mobile.com/responsibility/legal/terms-and-conditions), produced by Google beginning at GOOG-  
 13 CSUPO-00061992. At GOOG-CSUPO-00061999, these terms provide, “Third party Content &  
 14 Apps may require your agreement to a license or other terms with the third party. Some Devices or  
 15 Content & Apps may contact our network without your knowledge, which may result in additional  
 16 Charges (e.g., while roaming internationally).”

17 36. Attached hereto as **Exhibit 35** is a true and correct copy of a screen capture of a  
 18 publicly available advertisement describing security features that Plaintiffs’ challenge, available at  
 19 <https://www.android.com/safety/>, produced by Google beginning at GOOG-CSUPO-00062365.

20 37. Attached hereto as **Exhibit 36** is a true and correct copy of a publicly available  
 21 Verizon webpage advertising describing security features that Plaintiffs’ challenge, available at  
 22 <https://tinyurl.com/37k5wr5j>, produced by Google beginning at GOOG-CSUPO-00064116.

23 38. Attached hereto as **Exhibit 37** is a true and correct copy of a publicly available  
 24 description of security features that Plaintiffs’ challenge, available at  
 25 [https://publicpolicy.google/resources/google\\_commitment\\_secure\\_by\\_design\\_overview.pdf](https://publicpolicy.google/resources/google_commitment_secure_by_design_overview.pdf),  
 26 produced by Google beginning at GOOG-CSUPO-00062339.

27 39. Attached hereto as **Exhibit 38** is a true and correct copy of publicly available  
 28 advertising describing security features that Plaintiffs’ challenge, available at



1 <https://www.android.com/safety/security>, produced by Google beginning at GOOG-CSUPO-  
2 00062368.

3 40. Attached hereto as **Exhibit 39** is a true and correct copy of excerpts from the  
4 transcript of the deposition of Plaintiff Joseph Taylor, taken on October 28, 2024.

5 41. Attached hereto as **Exhibit 40** is a true and correct copy of an AT&T consumer  
6 service agreement, available at the archived webpage  
7 <https://web.archive.org/web/https://www.att.com/legal/terms.consumerServiceAgreement.html>,  
8 produced by Google beginning at GOOG-CSUPO-00058554.

9 42. Attached hereto as **Exhibit 41** is a true and correct copy of a user guide for a  
10 Motorola Moto e<sup>4</sup> device, describing background network transfers, produced by Motorola in the  
11 *Csupo v. Google LLC* action as MOTO-CSUPO-00001-57.

12 43. Attached hereto as **Exhibit 42** is a true and correct copy of a screen capture of the  
13 “Send usage and diagnostic data” setting in the Android device setup flow, which shows users can  
14 turn on or off the usage and diagnostics logging that Plaintiffs challenge under the Clearcut  
15 category, produced by Google beginning at GOOG-CSUPO-00005382.

16 44. Attached hereto as **Exhibit 43** is a true and correct copy of the November 12, 2024  
17 Expert Report of Google’s Expert Dr. Natalie Mizik.

18 45. Attached hereto as **Exhibit 44** is a true and correct copy of excerpts from the  
19 transcript of the deposition of Plaintiffs’ Expert Dr. Roger Entner, taken on February 3, 2023.

20 46. Attached hereto as **Exhibit 45** is a true and correct copy of excerpts from the  
21 transcript of the deposition of Plaintiff Mick Cleary, taken on October 29, 2024.

22 47. Attached hereto as **Exhibit 46** is a true and correct copy of excerpts from the  
23 transcript of the deposition of Plaintiffs’ Expert, Dr. Jeffery Stec, taken on December 10, 2024.

24 48. Attached hereto as **Exhibit 47** is a true and correct copy of the October 15, 2024  
25 Expert Report of Plaintiffs’ Expert Dr. Roger Entner in the *Csupo v. Google* matter, which was  
26 attached as Exhibit B to his expert report in this matter and adopted in full for purposes of this  
27 matter.

28 49. Attached hereto as **Exhibit 48** is a true and correct copy of an email from Plaintiffs’

1 counsel Marc Wallenstein to me regarding a named Plaintiffs' death, sent on September 14, 2024.

2 50. Attached hereto as **Exhibit 49** is a true and correct copy of the obituary of Plaintiff  
3 Edward Mlakar, dated December 31, 2021, available at  
4 <https://legacy.suntimes.com/us/obituaries/chicagosuntimes/name/edward-mlakar-obituary>.

5 51. Attached hereto as **Exhibit 50** is a true and correct copy of Google's Privacy Policy,  
6 effective February 10, 2022, produced by Google beginning at GOOG-CSUPO-00043118. It  
7 explains that Google collects crash reports from Android devices.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed on May 7, 2025, in San Francisco, California.

10  
11 /s/ Whitty Somvichian

12 Whitty Somvichian  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28